



City of Albuquerque

Legislative File Number AC-05-14 (version 1)

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## INTER-OFFICE MEMORANDUM

November 17, 2005

**TO:** Brad Winter, President, City Council

**FROM:** Richard Dineen, Planning Director  
AC-05-14 - 04EPC-01221, 04EPC-01222 Project #1002112 - Rodey, Dickason, Sloan, Akin & Robb, P.A. (Michelle Henrie) agent for Countrywood NHA and HOA appeals the decision of the Environmental Planning Commission to approve a site development plan for subdivision and building permit for all or a portion of Lot(s) 1 - 5 & 28- 32, Block 21 Tract A, Unit A, North Albuquerque Acres, zoned SU-2 Mixed Use, located on Wyoming Blvd NE, between, Paseo del Norte NE and Palomas Dr NE, containing approximately 6 acres. Carmen Marrone, Staff Planner. (D-19)

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This is an appeal of the Environmental Planning Commission's (EPC) October 20, 2005 decision to approve a site plan for subdivision and a site plan for building permit for a 5.88-acre parcel of land within the La Cueva Sector Plan boundary. The property owner proposes to construct five buildings on the site to allow for retail shops and a restaurant. The site is zoned SU-2/Mixed Use which refers to the C-1 zone in the Zoning Code with some exceptions. The uses proposed are

allowed under the current zoning. The Planning Department recommended approval of both requests and the EPC unanimously approved the requests.

### **STANDING:**

The Countrywood Area Neighborhood Association and the Countrywood Homeowner's Association, Inc. appeal the October 20, 2005 decision of the EPC. Countrywood Area Neighborhood Association is a recognized neighborhood association located south of the subject property and has standing to bring this appeal. Countrywood Homeowner's Association, Inc. has standing to bring this appeal because it represents property owners within 300 feet of the subject property.

### **GROUND'S FOR APPEAL:**

Below is a list of the appellant's arguments (in bold text) followed by responses from the City of Albuquerque Planning Department:

**1. The EPC Erred in Applying Policy 5d of the City's Comprehensive Plan. Policy 5d states, "The location, intensity and design of new development shall respect existing neighborhood values, natural environmental conditions and carrying capacities, scenic resources, and resources of other social, cultural, or recreational concern."**

The appellant claims that the increase in traffic is beyond what is reasonable and appropriate and therefore does not respect existing neighborhood values. However, the appellant does not provide evidence as to what constitutes "reasonable and appropriate". The newly acquired Paseo del Norte access reduces the traffic on Palomas by approximately 30% from the 2003 site plan. The EPC felt that this reduction was reasonable given the existing zoning and allowed uses on the site.

The appellant also claims that the traffic engineer's "logical routing" is flawed because it is contrary to Countrywood's observation at Lowes and their own "logical routing". The situation behind Lowes, between I-25 and San Pedro is vastly different from the situation along Palomas between Wyoming and Barstow. It is not logical to compare the two nor should they be. Furthermore, Countrywood's "logical routing" is based on the current situation on Palomas, whereas it should be based on the proposed development with future roadway improvements.

Page 5 of the staff report explains how the proposed site plans further Policy 5d. It states, "The proposed commercial development will respect neighborhood values

because the uses proposed are allowed under the current zoning and in accordance with the La Cueva Sector Plan. The site is located at the intersection of two principal arterials, which makes it appropriate for commercial development. Similar development on the site has been met with neighborhood opposition because of excessive traffic on Palomas. In recent months, the property owner has been able to obtain additional access to the site from Paseo del Norte. This second access will relieve the traffic on Palomas, thus respecting neighborhood values and carrying capacities.” Finding #8 for the site plan for subdivision and the site plan for building permit refers to Policy 5d and the above analysis. The EPC applied Policy 5d appropriately.

**2. The EPC Erred in Applying Policy 5e of the City's Comprehensive Plan. Policy 5e states, “New growth shall be accommodated through development in areas where vacant land is contiguous to existing or programmed urban facilities and services and where the integrity of existing neighborhoods and can be ensured.”**

The appellant again claims that the increase in new traffic does not ensure the integrity of the existing neighborhoods in the La Cueva area. Please refer to staff's response under Policy 5d. The appellant further states that “someday there may be a commercial development proposed for the site that does ensure the integrity of the existing neighborhoods” but does not suggest what this commercial development would consist of.

Page 5 of the staff report explains how the proposed site plans further Policy 5e. It states, “The site is contiguous to existing urban facilities to help preserve the integrity of the existing neighborhoods. The attached Public Facilities/Community Services Map shows numerous public facilities within a 1-mile radius of the site. Ten-foot wide trails are provided along Wyoming and Paseo del Norte, adjacent to the site and a bicycle lane is provided along Wyoming. Bus service is provided to the site and Transit is requesting the provision of a bus shelter at the southwest corner of the site.” Finding #8 for the site plan for subdivision and the site plan for building permit refers to Policy 5e and the above analysis. The EPC applied Policy 5e appropriately.

**3. The EPC Erred in Applying Policy 5i of the City's Comprehensive Plan. Policy 5i states, “Employment and service uses shall be located to complement residential areas and shall be sited to minimize adverse effects of noise, lighting, pollution, and traffic on residential environments.”**

The appellant claims that the proposed development does not complement the Countrywood residential area because of the building orientation (backs of buildings to Palomas) and the adverse effects of traffic. Please refer to staff's response to Claim #5 below regarding building orientation. In addition, page 5 of the staff report explains how the proposed site plans further Policy 5i. It states, "The proposed development will provide employment and service uses to the surrounding neighborhoods that will complement residential areas. The site plan provides a building wall along Palomas, which will help minimize the adverse effects of noise and light on residential environments to the south. In addition, the traffic on Palomas will be minimized with the addition of a second access from Paseo del Norte." Finding #8 for the site plan for subdivision and the site plan for building permit refers to Policy 5i and the above analysis. The EPC applied Policy 5i appropriately.

**4. The EPC Erred in Applying Policy 5k of the City's Comprehensive Plan. Policy 5k states, "Land adjacent to arterial streets shall be planned to minimize harmful effects of traffic; livability and safety of established residential neighborhoods shall be protected in transportation planning and operations."**

Policy 5k was not addressed in the staff report because Palomas Drive which serves the established residential neighborhood (Countrywood) is a Major Local Street and not an Arterial Street. Traffic impacts regarding this case are addressed under Policies 5d and 5i. However, under Policy 5k, the EPC *did* consider the livability and safety of the Countrywood residents by considering extensive testimony from the Transportation Development Division of the Planning Department regarding the Traffic Impact Studies associated with this project. Details regarding the amount, the flow, and the impact of traffic were discussed at the EPC hearing over several hours.

**5. The EPC Erred in Applying the *La Cueva Sector Plan* in Arriving at its Decision. The appellant claims that the proposed development is not neighborhood oriented and is contrary to Design Regulations 4R-1 and 4R-3, page 32 of the *La Cueva Sector Plan*.**

The *intent* of Design Regulation 4 is to "provide pleasing views to surrounding uses by providing higher quality facades at the rear and sides of new buildings." The *La Cueva Sector Plan* recognizes that commercial development will likely occur along

Paseo del Norte and that the buildings will likely face Paseo del Norte. The design regulations were written with this in mind. The design regulations do not require buildings to face Palomas Drive which is why Design Regulation 4R-3 was written. It states, “When the rear of a building faces open space, trails, or any street, one of the following shall be provided to create an attractive façade facing the public space:

- a. display windows and landscaping
- b. building design and details similar to the front façade and landscaping”

In this case, Option b was chosen by the applicant and considered by the EPC. The building facades along Palomas Drive are similar to the front facades of the buildings with regard to materials and colors and include doors with small windows over each door and canopies. In addition, trees and shrubs are provided along the entire length of the facades facing Palomas Drive to soften the backs of the buildings, as required per Option b.

With regard to Design Regulation 4R-1, the EPC found that the intent of the *La Cueva Sector Plan* is fulfilled “because all of the buildings are oriented to public spaces including the internal parking, landscape areas, public plazas and pedestrian connections and because the sides and rears of the buildings are enhanced to provide pleasant views. The orientation of Building B towards Paseo del Norte is appropriate because the grade differential between the building footprint and Palomas Drive varies from six feet at the eastern end of the building to zero feet at the western end. This severe drop from Palomas Drive to the base of Building B prevents a convenient and safe transition from the sidewalk directly to the building.”

**6. The EPC Erred by Failing to Consider the Entire Record in this Matter. The appellant claims that the EPC did not have the opportunity to consider the full record in this matter, starting from 2003.**

Pages 1 and 2 of the staff report provides background and history information regarding this request since 2003. In addition the staff report included the City Council Notice of Decision from October 14, 2003, the District Court Decision from September 2004, the Paseo del Norte/Wyoming Boulevard Access Study from February 2005, and the Resolution of the Metropolitan Transportation Board from August 2005 that granted access from Paseo del Norte to the site. Adding site plans, elevations, and traffic reports from 2003 would have added confusion since these were no longer relevant to the current request.

The current request was submitted to the EPC on August 5, 2004 (Project #

1002112). From September 2004 to September 2005 the request was deferred in order to give the applicant time to figure out how to reduce traffic impacts on Palomas Drive. On September 15, 2005, the applicant submitted a revised submittal from the August 5, 2004 submittal in order to show the newly acquired Paseo del Norte access. As a result of this additional access, the traffic numbers were updated and the site layout was revised. The appellant claims that the 2003 site plans and the current site plans are similar and therefore, the EPC should rely on the City Council and the District Court decisions from 2003 and deny the current request. However, the EPC found that, in fact, the current request is different from the 2003 request as a result of the Paseo del Norte access, the new traffic study, and the new application filed on August 4, 2004 (Finding #7 for the site plan for subdivision and site plan for building permit).

The appellant also claims that since the entire record from 2003 was not provided to the EPC, Countrywood's concerns were not represented. Actually, Countrywood's concerns have not changed from 2003 to the present and these concerns were captured and repeated in the Facilitated Meeting Report dated October 15, 2005. The Report states that "the neighbor's primary concerns remain traffic impacts and aesthetics" (bottom of page 1). The Report was provided to the EPC prior to the EPC hearing of October 20, 2005.

The Planning Department believes that this appeal lacks merit and recommends denial of the appeal.

APPROVED:

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Jack Cloud, Interim Manager  
Development Review Division  
Planning Department

